

DEPARTMENT OF BOATING AND WATERWAYS

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July 1, 1998

Mr. Lester Snow
Executive Director
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, California 94236-0001

Lester
Dear Mr. Snow:

The Department of Boating and Waterways has reviewed the Draft Programmatic Environmental Impact Statement/Environmental Impact Report (DPEIS/EIR) for the CALFED Bay-Delta Program. We have several areas of concern regarding the document: (1) the program mission and goals, (2) the potential program impacts on recreational boat use and navigability and (3) the possible effects of the proposed program on aquatic weeds in the Delta.

Mission and Goals

The stated mission of the CALFED Bay-Delta Program is to "develop a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the Bay-Delta System." We believe that inherent in this mission statement is a CALFED responsibility to establish a balance between existing human uses of the Bay-Delta system and the need to improve the ecological health and water management of that system. Accordingly, the goals of the Program should include the improvement of public access and recreational uses of the Bay-Delta system.

Recreational Boat Use and Navigability

Recreational boating will be impacted by a number of actions envisioned by the DPEIS/EIR. If the CALFED Program were to be implemented, boating could be affected by temporary or permanent measures in areas where (a) maximum boat speeds would be established to reduce boat wakes, and (b) boating would be excluded. Such areas are not precisely identified by the DPEIS/EIR; however, boating restrictions could apparently occur in association with the restoration of any or all of the following: (a) 160 miles of Delta sloughs, (b) 50-200 acres of midchannel islands, (c) 30,000 to 45,000 acres of emergent wetlands and (d) 59,000 to 89,000 acres of seasonal wetlands. To more clearly identify those areas that could impact boat use, we request that the DPEIS/EIR identify by maps those sections of waterways that may involve boat use restrictions or exclusion.

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The economic analyses of the alternatives indicate that recreational industries will benefit from the proposed developments. We infer that the benefits described are net benefits, i.e., the benefits (in part) reflect mitigation for the reductions in boating that will take place due to use restrictions and the loss of boating facilities. We would request that the DPEIS/EIR identify and quantify (numerically and monetarily) the gains and losses that will occur to permit the boating community to better evaluate the alternatives.

We are of the opinion that actions under consideration by the DPEIS/EIR will affect Delta navigability and the continued operations of at least some marinas. The proposed actions include filling "deep water areas with sediments to create shallow-water habitats," "maintaining a supply of natural sediments to the Delta," avoiding "dredging in shallow water areas . . . of less than 3 meters (depth) at mean high water," and allowing "woody debris" to pass through the Bay-Delta system. We think that such plans should be evaluated by the DPEIS/EIR as to the potential for impacts on navigability of the waterways and the long-term survival of marinas.

We would also note that the possibility of impairing navigability brings an important legal issue into play, namely both the California Constitution and the Government Code guarantee members of the public a right of access to the navigable waters of the State which are held in trust for their benefit. We don't presume to make any sort of determination about the applicability of these safeguards in the current CALFED process and we are aware that when there are competing public trust cases or interests, the State is free to prefer one use over another. We only want to point out that significant case law on the subject exists.

Aquatic Weeds

The DPEIS/EIR contemplates the development of additional shallow water habitats in the Bay-Delta system. However, we should point out that such habitat would also be conducive to the territorial expansion of invasive aquatic weeds. The DPEIS/EIR should evaluate the potential for such water area to also become habitat for aquatic plants such as *Egeria densa* and Waterhyacinth (which this Department has a statutory mandate to control), and gauge the ecological & economic consequences.

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In summary, we believe that boating interests in the Bay-Delta system are essentially ignored, or at best treated only as a stressor. The Department of Boating and Waterways is represented on the Delta Protection Commission alongside other agencies representing fish and wildlife, water transport, levee maintenance, farming, recreation and a variety of other interests. The Delta Protection Commission is charged to "protect" specific interests in the Delta, including recreational boating. We believe that CALFED should do no less.

Sincerely,



C.F. Raysbrook
Director

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